

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

MARK DEMING,

Petitioner

vs.

ATTORNEY GENERAL OF THE  
STATE OF MONTANA; MONTANA  
7TH JUDICIAL DISTRICT COURT,  
RICHLAND COUNTY; CHARITY  
MCLARTY; ALI MOULTON,

Respondents.

CV 21-41-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on state pro se petitioner Mark Deming's application under 28 U.S.C. § 2254, seeking habeas corpus relief. (Doc. 6). The Magistrate recommended that the petition be dismissed because the claims contained within are untimely and procedurally defaulted without excuse. (Doc. 6 at 7). The Magistrate also recommended denying a certificate of appeal. (Doc. 6 at 8).


Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 6) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that the Petition (Doc. 1) is DISMISSED with prejudice. The Clerk of Court shall enter judgment in favor of Respondents and against Petitioner. A certificate of appealability is DENIED.

DATED this 22<sup>nd</sup> day of August, 2022.

  
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SUSAN P. WATTERS  
United States District Judge